

CITY OF GREENACRES

OFFICIAL MINUTES TRACKING

Council/Board: city Council

Meeting Date: 5-4-15

Transcribed by: mf No. of Pages: 32 Transcription Time: 22.5

REVIEW OF MINUTES

Reviewed By:

Name/Initials	Date	Revisions	
<u>Dme</u>	<u>5-12-15</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No

APPROVAL OF MINUTES

Meeting Date: 5-18-15

Motion By: Dugo Seconded By: Bausquet

Check One: ☒ Approved ☐ Tabled ☐ Denied Vote: 5/0

Changes requested by Council or Board? ☐ Yes ☒ No

If yes, note changes: _____

Date Scanned and Filed: _____ By: _____



OFFICIAL MINUTES

CITY OF GREENACRES
5800 Melaleuca Lane
Greenacres, FL 33463

CITY COUNCIL MEETING
Monday, May 4, 2015- 7:00 PM

1. Call To Order and Roll Call.

Mayor Ferreri called the City Council Meeting of Monday, May 4, 2015 to order at 7:00 p.m. Denise McGrew, City Clerk/Administrative Services Director, called the roll.

ROLL CALL:

Council Present:

Samuel J. Ferreri, Mayor
Lisa M. Rivera, Councilwoman
Judith Dugo, Councilwoman
Peter A. Noble, Councilman
Jonathan G. Pearce, Councilman
Paula Bousquet, Councilwoman

Attendees from Public: 28
Press: 2

Staff Present:

Wadie Atallah, City Manager
Pamela S. Terranova, City Attorney
Thomas Lanahan, Asst. City Manager/P&E Director
Denise McGrew, City Clerk/Admin. Services Director
Michael Grimm, Director/Building
Thomas Hughes, Director/Finance
Michele Thompson, Director/Leisure Services
Mike Porath, Director/Public Safety
Carlos Cedeño, Director/Public Works
Melody Larson, Assistant to the City Clerk

2. Pledge of Allegiance to the Flag.

Mayor Samuel J. Ferreri led the Pledge of Allegiance.

3. Comments From the Public for Agenda Items Only.

Mayor Ferreri asked if there were comments from the public.

Estelle Friedman, resident of 3820 South 55th Avenue, apologized for comments she made at the April 20, 2015 City Council meeting. During that meeting she witnessed arrogant, self-serving and vengeful behavior from certain Council members. Relating to Council Police No. 14, her 16-year experience as a school district employee and union negotiator have taught her that there are protocols put in place to protect employees. She urged Council members to protect City employees and reminded them they were elected to represent the people.

Vern Quigley, resident of 5930 Melaleuca Lane, stated that after recently conferring with several City employees, he learned that Councilman Pearce was not as bad as he originally believed; however, he believed the Councilman was going about things in the wrong way. Trying to fire the City Attorney after she had already submitted her retirement, was unnecessary. He reminded Councilman Pearce that this is not a dictatorship. Then, to take it upon himself to bring in an interim attorney to take her place, he reminded Councilman Pearce that it is not his position to make decisions for the entire Council. He explained the proper way of calling for a workshop and discussing the matter at a public meeting. Mr. Quigley stated it was his belief that a violation of the Sunshine Law had occurred and formally asked the Mayor to call the State Attorney's office to investigate a violation of the Sunshine Law.

Mayor Ferreri continued with the Agenda.

4. Agenda Approval.

Mayor Ferreri requested adding Consent Agenda No. 9, "2015 Educational Scholarship Awards" and a Legislative Update by Representative Lori Berman under, "5. Special Business."

- A. Additions, deletions, or substitutions to the Agenda.
- B. Motion to approve and adopt entire agenda as set.

Mayor Ferreri inquired if there were any additions, deletions or substitutions to the Agenda; hearing none, he called for a motion.

MOTION: Councilwoman Bousquet made a motion to approve the Agenda as amended. Councilman Noble seconded the motion.

VOTE ON THE MOTION: In Favor: Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, Councilman Pearce, and Councilwoman Bousquet.

Motion carried: 5 - 0.

5. Special Business. Legislative Update - Rep. Lori Berman.

Rep. Lori Berman reported that the 2015 Legislative Session was cut 3 days shorter than normal and that the State Budget was not balanced due to a \$4 billion healthcare rift that would be decided upon their return prior to the June 30, 2015 deadline. The topic of discussion will on L.I.P. a money pool that funds Medicaid expansion and hospitals. If Medicaid is expanded, \$5 billion would come from the Federal Government and approximately 800,000 individuals will receive coverage. Rep. Berman reported that a total of 232 bills passed, the lowest number of bills, and cautioned that the Governor still maintains veto power.

The largest priority for Palm Beach County was sober home legislation which passed requiring voluntary (not mandatory) registration. If a sober home has not registered it will not appear on a rehab center list. Background checks are required to obtain certification. This is a great first step forward.

Rep. Berman sponsored a local bill which allows for a water catchment easement on 45th Street and Haverhill Road to promote the economic development of a parcel of land slated for spring training for the Houston Astros.

Bills that died: Cost for utilities relocation, septic systems, and the Communications Service Tax (CST) cut of \$400 million. When the CST was proposed it would hold harmless local and county governments for 1 year. She cautioned this is something to watch.

Bills passed: The construction of colleges, schools and political subdivisions. If more than 50% of the funds are derived from the State, you cannot use local preference. An education bill for less testing; school districts were given discretion to decide when to start school. The 2015 school year will begin August 17th.

Rep. Berman reported that Amendment 1 did not pass. It's a money issue and will return during budget review.

Issues that died: Gambling, Uber Bill or transportation, enterprise zones, film tax credits, and red light camera regulations. It is anticipated that these issues will return after the Budget is passed.

Current Issues: The PBC Delegates are working on building the 5th campus for Palm Beach State College and a new Court of Appeals courthouse among other local projects.

6. **Consent Agenda.**

A. Mayor Ferreri asked Council if they wished to pull any of the nine (9) Consent Agenda items. Councilman Pearce and Councilwoman Rivera requested pulling Item No. 1. Councilwoman Rivera asked if any of the Consent Agenda items consisted of a cost factor. City Manager Wadie Atallah explained that Item Nos. 2-6 are proclamations with no associated costs. Item No. 7 is a grant application and Item Nos. 8 and 9 are budgeted items. Councilwoman Rivera asked to also pull Item No. 2. Mayor Ferreri called for a motion for Item Nos. 3-9.

1. **Official Minutes:** City Council Meeting of April 20, 2015 – Denise McGrew, City Clerk.
2. **Proclamation:** "Municipal Clerks Week" for May 3–9, 2015 – Samuel J. Ferreri, Mayor.
3. **Proclamation:** "World Lupus Day" for May 10, 2015 – Samuel J. Ferreri, Mayor.
4. **Proclamation:** "National Kids to Parks Day" for May 16, 2015 – Samuel J. Ferreri, Mayor.

5. **Proclamation:** "EMS Week" for May 17-23, 2015 – Samuel J. Ferreri, Mayor.
6. **Proclamation:** "National Public Works Week" for May 17-23, 2015 – Samuel J. Ferreri, Mayor.
7. **Resolution No. 2015-15:** Authorizing the submittal of the Fiscal Year 2015 Bulletproof Vest Partnership (BVP) Grant Application for the purchase of twenty-five (25) bulletproof vests used by law enforcement personnel within the Department of Public Safety, in the City of Greenacres, Florida: authorizing the appropriate City Officials to apply for and administer the grant and providing for an effective date; pursuant to Staff Memo – Michael L. Porath, Public Safety Director.
8. **Emergency Medical Supplies Purchase Order:** Authorization to increase the sole sources FY 2015 purchase order to the PBC Health Care District from \$9,999 to \$14,999 for pharmaceuticals, drugs, and other medical supplies used in the Emergency Medical Services response vehicles; pursuant to Staff Memo – Michael L. Porath, Public Safety Director.
9. **2015 Educational Scholarship Awards:** Requesting ratification of the Scholarship Committee's recommendation for the winners of five (5) Scholarship Awards. – Councilwoman Paula Bousquet, Scholarship Committee Chair.

MOTION: Councilwoman Dugo made a motion to approve the Agenda as amended. Councilwoman Bousquet seconded the motion.

VOTE ON THE MOTION: In Favor: Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, Councilman Pearce, and Councilwoman Bousquet.

Motion carried: 5 - 0.

1. **Official Minutes:** City Council Meeting of April 20, 2015 – Denise McGrew, City Clerk.

Referring to Page 5 of the minutes, Councilman Pearce read that the Charter states that an attorney will be present at all meetings. He stated that after reviewing the Charter, he did not see where that is mentioned.

City Attorney Pamela Terranova explained that it was a comment that the Mayor made.

Mayor Ferreri confirmed that is what he said.

Councilman Pearce questioned if a City Attorney is not present, can a Council meeting still be conducted.

Ms. Terranova explained that would be the Council's call, but cautioned against doing so. If the Council decided to hold a meeting without the presence of legal counsel, they could do so.

Ms. Terranova pointed out that the idea of mentioning the City Attorney in the Charter is to have legal counsel present to avoid violations of law.

Councilman Pearce pointed out that the minutes state that the Mayor stated that if the City Attorney is not present, that meetings cannot be conducted, that the meeting must be terminated.

Mayor Ferreri clarified that he would not conduct a meeting without an Attorney present.

Councilman Pearce then questioned the vote on the motion to terminate the City Attorney on Pages 13 and 14. He asked to revise the minutes to show who voted in favor of the motion. And he then asked to delete the Mayor from voting on that motion since the Mayor cannot vote.

Mayor Ferreri pointed out that the minutes could not be changed.

Councilwoman Rivera stated, "We can amend them."

Mayor Ferreri corrected her stating that the minutes can be amended upon proof that something was said or not said, or if there is a correction; but you cannot change the proceedings that occurred at a meeting.

Councilman Pearce pointed out, "The correction is that they have you in here voting, you don't vote."

Councilwoman Rivera stated, "That's correct, you do not vote."

Mayor Ferreri asked, "Who says I don't vote?"

Councilwoman Rivera read from the Charter, Article I: Incorporation: Form of Government; Powers and Boundaries, Section 4: Form of Government, Article II: Mayor, Section 1: Mayor, Article III: City Council, Section 1: Organization of Council, Article VII [should be Article VIII: Administrative Departments], Section 2: City Manager and Section 3: City Attorney. Ms. Rivera emphasized that the definition of Council is five (5) members, not the Mayor. She stated that the Mayor was wrong on two issues, it was not a tie, and he does not vote on City Manager or City Attorney issues. Being somewhat confused she sought legal counsel. She then read an email from the City Attorney who, referring to the actions taken at the April 20, 2015 City Council meeting and Article VII, Sections 2 and 3 are subject to more than one interpretation. Mrs. Rivera stated that that is not what she asked. "Remember the definition of the City Council is 5 members and not the Mayor. And on our own webpage, it states the 5 Council members are also elected by City registered voters for staggered 2-year terms to

represent the entire the City. The Council appoints a City Manager to manage the day-to-day operations of the City. Above that, the Mayor is elected at large for a 2-year term and serves as the key elected official presiding at Council meetings, facilitating communication between elected and appointed officials, assisting the Council in setting goals and advocating policy decisions. The Mayor does not vote on issues before the Council unless there is a tie vote. On April 20th there was no tie vote. Had he not voted, it still would have passed. So I give you this scenario, hypothetically, let's say the Mayor considers himself part of Council, that would be 6. Who would break a tie then? I make a motion to amend the minutes, the voting to pull the Mayor from voting. Did I say that correctly... you guys get the point."

1st MOTION: Councilwoman Rivera made a motion to amend the motion on Page 14 of the City Council minutes of April 20, 2015, by removing the Mayor's vote. Councilman Pearce seconded the motion.

No action was taken based on discussion.

Discussion on the Motion:

Councilman Pearce asked, "Could I just add one more thing, I uh...I requested in the last week here...I have the City's Manager's contract and it's Resolution No. 2001-47... section where it says whereas the City Council desires to appoint and hire Wadie Atallah as City Manager for the City of Greenacres. Section 1 of his contract, Appointment of the City Manager, pursuant to the Article VIII, Section 2 of the City Charter, the City Council, and it's gonna give a definition in parenthesis, (the Council, the City Council is considered the Council or (Employer) hereby appoints Wadie Atallah as the City Manager, definition in parenthesis, (the Employee) or City Manager for an indefinite period indefinite term beginning August 6, 2001. On Page 2, Section 3B: Terms of Employment, Nothing in this Agreement shall prevent, limit, or otherwise interfere with, the right of the City Council to terminate the services of "Employee" at any time, subject to only provisions set forth in Section 4, Paragraph A and B of this Agreement, and that's regarding his severance pay. So, I mean there's definitions here identifying the City Council, so where it's hung up, the majority vote of the full Council, we have the definition of the City Council is the Council, the full Council, okay. And as Councilwoman Rivera said, under the appointment.... of our form of government, the Council is defined as 5 members. And I'll second your motion.

Councilwoman Rivera stated, "May I add, in Charter, Section 1: Mayor, again, B: A vote in the event of a tie vote of any action of the Council when the Mayor votes to break a tie, his vote shall be considered to have the same effect as the vote of a member of City Council for purposes of required votes. So, giving a visual, 'cause I work at the School District and students are very visual, um, let's say I was absent. There was something to vote upon, that leaves 4 Council members. Two vote yay, two vote nay, the Council, I'm sorry, the Mayor then can step in and vote as if I wasn't here to break that tie. That, is the purpose of a Mayor's vote."

Councilman Pearce stated, "And then the last thing I wanted to add, as per the City Manager's contract on the last page, Page Number 13, on Res. 2001-47, ladies and gentlemen, it has the 5 Council members clear and distinct, where it's says 'Voted', they have their names in 'Yes' and 'No'."

Councilman Pearce stated, "Now I also asked for 2 previous City Managers before Mr. Atallah. I received that this week. It's the same exact thing. Full Council does not mean you have to have all Council members here, because one of the City Managers, there is only a 3 to 1 vote, there was one absent, Council member here. We're getting into very dangerous territory. If the Mayor or anybody else in my opinion, as one Council member speaking, has a problem with this, that individual then has the right to go into court and challenge the Council on this and get an interpretation. To go out and get an opinion letter or anything like that, it's just an opinion. This would only be cleaned up by the courts. But, I feel confident enough as one Council member sitting up here that it's the full Council, 5 members, are the only ones that can vote, not the Mayor. Thank you."

Councilwoman Bousquet stated, "It concerns me that Mr. Pearce brought something up and Ms. Rivera did the research."

Councilman Pearce stated, "Well, I've got my research right here."

Councilwoman Bousquet stated, "I don't usually believe in coincidences; it's very strange. Doesn't it...is the end result the same?"

Councilman Pearce replied, "No, it's not."

Councilwoman Rivera stated, "I don't understand the question."

Councilwoman Bousquet stated, "I'm just making a statement that it's very strange that you did the research to his questions."

Councilwoman Rivera replied, "Well, when you're constantly being thrown or told learn the Charter, I'm learning the Charter."

Councilwoman Bousquet stated, "Good, that's a good thing."

Councilwoman Dugo pointed out that the City Manager's contract was signed in 2001. She asked if there had been any change to Article III since 2001?

Ms. Terranova explained that the term "full Council" is the terminology used. The term "full" is not defined. "As it relates to the approval of the employment contract, the Mayor would not vote on that. The question is on the "appointment", that is the question. The appointment, the hiring and firing is based on the "full Council". The Council is defined as 5, the Mayor is defined as Mayor, but there is no definition of what "full" means and that is I believe where the Mayor came from. What I explained to Mrs. Rivera when she asked for my opinion, I said there is a discrepancy. In order to resolve that discrepancy you

have one of three (3) options: you can go to the court; you can seek an opinion from the Attorney General or you can amend the Charter to clarify it."

Councilwoman Rivera stated, "Or you can hire an outside legal agency."

Councilwoman Dugo asked, "Would it make sense if we could just always be in a complete deadlock."

Ms. Terranova replied, "No, it's only 2 situations."

Councilwoman Dugo asked, "If you're hiring 2 employees and you have 6 people voting, so you could always be in a tie. You would be in a deadlock."

Ms. Terranova replied, "Well, you could potentially be in a tie. But there are only two situations that the term 'full Council' is used. That's it. Any other voting power is clear."

Councilwoman Dugo stated, "Those are the 2 key things that I feel the Council, I mean, the Mayor certainly has a voice in the selection, but I'm thinking 5 Council people. If you have 6, you're always at a deadlock."

Councilwoman Rivera asked, "Who's gonna break that tie?"

Ms. Terranova stated, "That doesn't presuppose...I mean...why do you assume there will always be a 3-3 deadlock?"

Councilwoman Dugo replied, "Well, if you have 6 people and you have 3 voting one way, and 3 voting the other..."

Ms. Terranova pointed out, "I don't know that 3 are going to vote one way, I mean, that's why I'm not getting past that leap."

Councilwoman Dugo replied, "You could potentially have that if you didn't..."

Ms. Terranova replied, "Then the motion would fail and you would move on to the next motion."

Councilman Pearce stated, "In the contract of the City Manager, the City Council desires to appoint; the word 'appoint' means 'hire' folks, there's the definition. The City Council desires to appoint and hire, so the word appoint is defined."

Ms. Terranova explained that unfortunately that is not the definition.

Councilman Pearce continued, "And if the Mayor has a problem with this, he has every right to go into court and challenge it, okay. We're not the ones gonna go into court and sue ourselves, 'cause all it is, is an opinion. There's still a cloud over our head where someone would say well, you went in there and got an opinion from a court. So, if there's a problem with that, the Council in my opinion has to take a stance on this. My position is as one member of the City Council, is that the Mayor does not vote. If he has a problem with it, let him go into court and let him put in before a judge and let a judge decide. Thank you."

Mayor Ferreri clarified that at the April 20, 2015 City Council meeting, he had Ms. Terranova review the Charter. The Charter was last revised on this issue in 1982, when the City moved to a city-manager form of government. Two (2) offices of the City Attorney and the City Manager sections as well as some other changes were made. It is the only place where it says "full Council". There are other sections where it states the Council will consist of the Mayor and five (5) City Council members. He explained that is from where he took his interpretation. He stated he would not go to court but urged Councilmembers to seek the Attorney General's opinion on this issue. He did not recall a 3-3 tie on any issue. The closest vote on a City Manager was 3-1 and he wasn't even present at that meeting. He noted that only 2 City officials remain on the Council since the last time a City Manager or City Attorney was hired and that was himself and Councilman Noble. Mayor Ferreri stated he was unsure as to what the purpose of amending the minutes would be. The vote was the vote at that meeting. As for the vote on firing the City Attorney, he suggested that instead of amending the minutes, they should look at amending the policy, getting an Attorney General's opinion, or change the Charter.

Councilman Pearce asked the City Attorney if the Attorney General gives opinions on State ordinances or interpretations of city charters?

Ms. Terranova replied, "Absolutely, cities ask their opinion all the time."

Councilwoman Rivera stated, "It's just an opinion, yes."

Ms. Terranova replied, "Well, it's the opinion of the highest legal office in the State of Florida."

Councilwoman Dugo asked if the Mayor could give her something to review right now that states that the full Council consists of five (5) members.

Mayor Ferreri explained he did not have the Charter with him. He reiterated his earlier statement that the Council had three (3) options to which the City Attorney agrees. He reminded them that the issue at hand is approval of the minutes. "That's what happened at the meeting, there was a vote, that's a historical perspective. You can't go and change the minutes if you don't like something somebody said about you, or you don't like a vote, you can't change the vote. There's a procedure to do that."

Councilwoman Rivera commented, "But, you can amend the minutes."

Mayor Ferreri explained that minutes can be amended due to a scrivener's error, but the record cannot be changed. He urged her to read Robert's Rules of Order.

Councilwoman Rivera stated, "I'm gonna speak for two (2) of the five (5) members. We both feel you did not have a vote."

Mayor Ferreri asked her to repeat her statement, and asked if she was going to speak for

Councilwoman Rivera stated, "I'm understanding... I think I'm understanding Mr. Pearce."

Councilman Pearce stated, "My position is the Mayor does not vote."

Councilwoman Rivera stated, "That's what I'm saying, 'cause we both brought up Council Policy No. 14, Page 14."

Councilman Noble reiterated, "You cannot change the minutes, it's already been said several times."

Councilman Pearce stated, "I know, but we also can give our position....."

Ms. Terranova, pointed out, "Which will be reflected in these minutes; you're positions will be reflected in these minutes. They are being recorded as we speak."

Councilwoman Dugo asked, "If the minutes are amended, do we...to reflect a change in vote, which doesn't change the results or anything, what does that do in the future? Do we establish that the full Council is five (5) when it comes to voting?"

Councilman Noble stated the minutes up for approval cannot be changed in response to your question. He recommended raising the issue at another meeting.

Councilwoman Rivera asked, "So, am I assuming that there is a difference of opinion here of what 'full Council' means?"

Councilman Noble stated that the terminology of "full Council" should be investigated.

Councilwoman Rivera believed that Council would incur a costly bill to resolve this issue.

Councilman Pearce agreed with Councilman Noble and stated, "After this at the end of the meeting, then we can have a discussion. The Council, the 5 Council members can take a position and a stance on how we feel. We'll vote on it, and we'll go forward. If anybody has a problem after that, then they can take action against the Council... simple."

Mayor Ferreri noted, "So, you are not going to follow the advice of your Attorney and get an Attorney General's opinion."

Councilman Pearce stated, "It's just an opinion, it's not fact, it's not absolute."

Councilwoman Dugo noted that the Mayor and Council would soon be employing an attorney. To get an Attorney [General's] opinion, we're not going to have enough time and they would be haggling over an employee that needs to be

hired. Because you have six (6) people voting and the potential for a deadlock.....,

Mayor Ferreri interrupted stating, "If you're going to hire your Chief Executive or your Attorney and there's a 3-3 tie, then you shouldn't be hiring that person. As a business person, he would not hire a person with a split count, because that person's job would be very limited.

Discussion followed regarding the time it would take to get a legal opinion or a charter amendment.

Councilman Pearce asked the City Attorney, "Is the City Attorney and the City Manager an employee of the 5 Council members?"

Councilwoman Rivera responded, "Yes, sorry!"

Ms. Terranova responded, "I guess you have your answer."

Councilman Pearce said, "Madam Attorney?"

Ms. Terranova replied, "Someone just said 'yes' so there's your answer."

Councilman Pearce said, "I'm asking you, Madam Attorney."

Ms. Terranova replied, "I am employee of the City of Greenacres hired and fired by the City Council. I don't work for each of you individually, I work for the body of the City, to work on behalf of the City of Greenacres and I am hired and fired and respond to this Council."

Councilman Pearce said, "And that's the 5 Council members."

Ms. Terranova replied, "I don't know that it's the 5 Council members, I respond to the Mayor in equal stead as I respond to all 5 of you. I have never differentiated in my mind between any of you. You all garner the same respect, I don't count votes, Mr. Pearce, I never have and I never will."

Councilman Pearce said, "But in the Mayor's job description Counselor, it states he doesn't vote." [Laugh]

Ms. Terranova replied, "Okay, Mr. Pearce, I'm going to say this one more time, you can sit here and grill me 'til tomorrow, the bottom line is this, there are two uses of the term 'full Council' in 2 sections of the Charter. The definition of 'full' is not made. It seems odd that if it was just Council, it would just say 'Council'; that is something we haven't discussed. No, it says 'full' Council. So, I will tell you that the only way.... I have determined because it was raised, that I believe there is a discrepancy. I don't believe that it can be resolved by any of us up here. It has to be resolved clearly in one of three ways. That is what I have said. It doesn't change it. I'm not saying the Mayor has a vote in anything else, or that there's a discrepancy in any other thing. The question has become in this parameter of these two sections, is there an issue. And the issue is yes, there is

an issue. Is it a constitutional crisis of sorts for the City, probably; it probably raises to that level.”

Councilman Pearce asked, “But the 5 member Council can also disagree with you and proceed....”

Ms. Terranova said, “Look I’m just an advisor. You think you can have a meeting without a lawyer, that’s fine, I’m just an advisor.”

Councilwoman Rivera reread aloud Article II, Section 1: Mayor.

Mayor Ferreri called for a motion to approve or deny the minutes.

2nd MOTION: Councilwoman Bousquet made a motion to approve the minutes of April 20, 2015. Councilman Noble seconded the motion.

VOTE ON THE MOTION: **In Favor:** Councilman Noble and Councilwoman Bousquet.
Opposed: There were no audible votes of opposition therefore, the Mayor assumed the minutes were approved.

Motion carried: 5 – 0.

2. **Proclamation:** “Municipal Clerks Week” for May 3–9, 2015 – Samuel J. Ferreri, Mayor.

Councilwoman Rivera questioned how many Municipal Clerks were there in the City of Greenacres.

Councilman Pearce replied, “One”, and then asked if Ms. Rivera wanted to wish City Clerk Denise McGrew Happy Municipal Clerk’s Week. Both Council members wished her a Happy Municipal Clerk’s Week.

Mayor Ferreri called for a motion.

MOTION: Councilwoman Rivera made a motion to approve Consent Agenda Item No. 2. Councilwoman Bousquet seconded the motion.

VOTE ON THE MOTION: **In Favor:** Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, Councilman Pearce, and Councilwoman Bousquet.

Motion carried: 5 – 0.

7. **Regular Agenda:**

- A. **Ordinance No. 2015-14:** First Reading; Amending Chapter 1 of the City of Greenacres Code of Ordinances, entitled General Provisions, by creating Section 1-25, to be entitled “Civil Rights” providing freedom from discrimination within the

City in employment and all other activities; providing for repeal of conflicting ordinances; providing for severability; providing for inclusion in code; and providing for an effective date; pursuant to Staff Memo – Wadie Atallah, City Manager.

Denise McGrew, City Clerk, read Ordinance No. 2015-14 into the record on first reading.

MOTION: Councilwoman Bousquet made a motion to approve. Ordinance No. 2015-14 on second reading. Councilman Pearce seconded the motion.

VOTE ON THE MOTION: **In Favor:** Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, Councilman Pearce, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- B. **PUBLIC HEARING** **Resolution No. 2015-11:** Approving the application for a Special Exception to allow a drive-in/fast food restaurant in a Commercial Intensive (CI) Zoning District, located on the north side of Lake Worth Road approximately 450 feet west of South Military Trail at 4507 Lake Worth Road, as requested by the petitioner, Robling Architecture Construction, Inc., agent for the owner, Jaha Holdings, LLC; providing for repeal of conflicting resolutions; and providing for an effective date; pursuant to Staff Memo and Staff Report - Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Resolution No. 2015-11 into the record.

Zoning Administrator Ted Kozak described the Special Exception request to expand an existing fast-food drive/thru KFC restaurant located adjacent to Mil-Lake Plaza, increasing the existing building by 826 feet and increasing the seating. Mr. Kozak reported that the concept plan shows changes to the exterior, enhanced landscaping. The proposed hours of operation are Sunday from 10:30 am–11:00 pm, Monday through Wednesday from 11:00 a –11:00 pm and Thursday through Saturday from 10:30 am–11:30 pm. He stated that the proposal is consistent with the twelve (12) Special Exception criteria; therefore, staff recommends approval of SE-76-01A through the adoption of Resolution No. 2015-11, subject to staff's seven (7) conditions of approval.

Mayor called on Council members for comment; hearing none, he called on the application for acceptance of staff's conditions of approval.

Damon Robling of Robling Architecture Construction, Inc. and petitioner, agreed with staff's seven (7) conditions of approval.

Mayor Ferreri called for a motion.

MOTION: Councilwoman Dugo made a motion to approve Resolution No. 2015-11, subject to staff's seven (7) conditions of approval. Councilman Pearce seconded the motion.

VOTE ON THE MOTION: **In Favor:** Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, Councilman Pearce, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- C. **Site Plan (SP-76-03A) Approval – KFC Renovation:** Site Plan amendment for a drive-in/fast food restaurant located on the north side of Lake Worth Road approximately 450 feet west of South Military Trail at 4507 Lake Worth Road; pursuant to Staff Memo and Staff Report - Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Zoning Administrator Ted Kozak described the proposed Site Plan Amendment to expand an existing KFC Restaurant located at 4507 Lake Worth Road. The proposal consists of adding 12 new seats for a total of 50 in the dining area and increasing the building square footage by 826 feet. Mr. Kozak reported that the ingress/egress is provided from Lake Worth Road and South Military Trail. Modifications to the south parking area will include a handicap space and a landscape buffer. The proposal will provide new office space, a renovated cooking area, a modern exterior, and enhanced landscaping and site lighting. The hours of operation are Sunday from 10:30 am–11:00 pm, Monday through Wednesday from 11:00 am –11:00 pm and Thursday through Saturday from 10:30 am-11:30 pm.

Mr. Kozak recommended modifying Condition No. #18, removing, "7 days a week", from the end of the sentence since it is a scrivener's error. He stated staff recommends approval of SP-76-03A subject to the twenty-seven (27) conditions of approval and the modification to Condition No. 18 as amended.

Mayor Ferreri called on Council members for comment; hearing none, he called on the applicant for acceptance of staff's conditions of approval.

Damon Robling of Robling Architecture Construction, Inc. and petitioner, agreed with staff's twenty-seven (27) conditions of approval and modification to Condition No. 18 as amended.

Mayor Ferreri called for a motion.

MOTION: Councilman Pearce made a motion to approve SP-76-03A (KFC Modernization), subject to staff's twenty-seven (27) conditions of approval and modification to Condition No. 18 as amended. Councilwoman Bousquet seconded the motion.

VOTE ON **In Favor:** Councilwoman Rivera, Councilman Noble,
THE MOTION: Councilwoman Dugo, Councilman Pearce, and
 Councilwoman Bousquet.

Motion carried: 5 - 0.

- D. **PUBLIC HEARING Ordinance No. 2015-02:** Second Reading; Amending the Recreation and Open Space Element of the City's Comprehensive Plan to update projections and reflect recent changes, as requested by the Planning and Engineering Department; providing for repeal of conflicting ordinances; providing for severability; providing for transmittal to the Division of Community Development; providing for inclusion in the Comprehensive Plan; and providing for an effective date; pursuant to Staff Memo and Staff Report – Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Ordinance No. 2015-02 into the record on second reading.

Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director, described the amendment to the City's Recreation and Open Space Element of the City's Comprehensive Plan. The last update to this element was done in September 2008. Mr. Lanahan reported that this amendment was due to an increase in population and a revised inventory of park land.

Mr. Lanahan reviewed the updates to Tables 1, 2, 3, 5, 8, 11, 12a and 13. He reported that the total recreation and open space City-wide is 116.09 acres and noted that the projected shortfall for 2024 is 6.21 acres. He recommended considering the use of land dedication in lieu of cash.

He reported that the Local Planning Agency reviewed this proposed amendment in January 2015 and recommended approval; Council heard this item in March on first reading. This amendment was later forwarded to the State for agency review from which the City received Letters of No Comment; therefore, staff recommends approval of CPA-14-03 through the adoption of Ordinance No. 2015-02.

Mayor Ferreri called on Council members for comments; hearing none, he opened the meeting to the public. He asked if anyone was in favor of Ordinance No. 2015-02 to come forward.

Roxana Hunt-Gale a long-time resident of 5950 Sunland Court, thanked the Mayor and Council for changing the zoning of a small preserve area in her community. She emphasized the importance of keeping nature and the City "green".

Seeing no one else come forward, Mayor Ferreri asked if any one was opposed Ordinance No. 2015-02 to come forward. Seeing no one come forward he closed the meeting to the public and called for a motion.

MOTION: Councilwoman Bousquet made a motion to approve Ordinance No. 2015-02 on second reading. Councilwoman Dugo seconded the motion.

Discussion on the Motion:

Mayor Ferreri noted that with a projected deficit in the future of 6.21 acres, he wanted to know if Council members would be interested in speaking with the County about the land located at the end of Pinehurst Drive. In a recent conversation with a County Commissioner, he proposed the possibility of the City obtaining said parcel at a cost of \$1 with a 99-year lease. This would eliminate the recreation and open space deficit as well as the ability to add soccer fields at Freedom Park in the future. Councilman Noble suggested considering volleyball too. Councilwoman Dugo pointed out the added costs for Public Safety to police the area. The Mayor noted that the parcel would require annexing into the City.

VOTE ON THE MOTION: In Favor: Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, Councilman Pearce, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- E. **Ordinance No. 2015-07:** First Reading; Amending the future land use map of the future land use element of the City's Comprehensive Plan, to change the future land use designation of one parcel of land totaling approximately 0.24 acres, located at the northeast corner of Empire Way and Chariot Circle, from Residential-Medium Density (RS-MD) to Recreation/Open Space (RO), as requested by the Planning and Engineering Department; providing for repeal of conflicting ordinances; providing for severability; providing for transmittal to the Division of Community Development; providing for inclusion in the Comprehensive Plan; and providing for an effective date; pursuant to Staff Memo and Staff Report - Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Ordinance No. 2015-07 into the record on first reading.

Zoning Administrator Ted Kozak described the small scale future land use amendment to change a 0.24 acre parcel from Residential-Medium Density (RS-MD) to Recreation/Open Space (RO). He noted that the parcel is located on the northeast corner of Empire Way and Chariot Circle and is part of the Palm Beach Villas II. He stated that the parcel was separated by deed, recorded in Palm Beach County, and was conveyed to the City in December of 2014. The City accepted the County conveyance in February 2015. This proposal would align with the recreation open space land use designation. Mr. Kozak reported that the City received several phone calls from

residents concerned that the City might plan to develop the property. On the contrary, this proposal would remove any development potential for the site.

Mr. Kozak stated the proposal is consistent with the surrounding land uses, the proposed change has no impact on concurrency and the proposal is consistent with the City's Comprehensive Plan, the Treasure Coast's Strategic Regional Policy Plan (SRPP) and State Statutes. Therefore, staff recommends approval of CPA-15-03 through the adoption of Ordinance No. 2015-07.

Mayor Ferreri called on Council members for comments.

MOTION: Councilman Pearce made a motion to approve Ordinance No. 2015-07 on first reading. Councilwoman Dugo seconded the motion.

VOTE ON THE MOTION: **In Favor:** Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, Councilman Pearce, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- F. **Ordinance No. 2015-08:** First Reading; Approving the application for a zoning change for three parcels of land totaling approximately 1.45 acres, located east of South Haverhill Road and north of the I-13 Canal, from Residential Low-3 (RL-3) to Government Use (GU), and for three parcels of land totaling approximately 1.91 acres, located east of South Haverhill Road and north of Melaleuca Lane, from Residential Medium-1 (RM-1) to Government Use (GU), as requested by the Planning and Engineering Department; providing for changes to the official zoning map; providing for repeal of conflicting ordinances; providing for severability; and providing for an effective date; pursuant to Staff Memo and Staff Report - Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Ordinance No. 2015-07 into the record on first reading.

Zoning Administrator Ted Kozak described the proposed zoning change for three (3) separate parcels totaling 1.45 acres from RL-3 to GU (Tags 1-3) and from RM-1 to GU (Tags 4-6) totaling 1.91 acres. He noted that Tag 4 is consistent with the passive use of the site (a park). Mr. Kozak explained that in 1989, Tags 1-3, 5 and 6 were identified in the City's Comprehensive Plan as recreation and open space; however, Tag 4 was omitted. He stated that this proposal would have no impact on surrounding properties, it is consistent with the goals, objectives, and policies of the City's Comprehensive Plan, it meets the ten (10) zoning change criteria. Therefore, staff recommends approval of ZC-15-03 through the adoption of Ordinance No 2015-08.

MOTION: Councilman Pearce made a motion to approve Ordinance No. 2015-08 on first reading. Councilwoman Dugo seconded the motion.

VOTE ON **In Favor:** Councilwoman Rivera, Councilman Noble,
THE MOTION: Councilwoman Dugo, Councilman Pearce, and
 Councilwoman Bousquet.

Motion carried: 5 - 0.

G. **City Council Policy No. 12** – Appointment of Deputy Mayor.

Mayor Ferreri announced that the recommendation was to abolish this policy. He called for comments from Council members.

MOTION: Councilman Pearce made a motion to abolish City
 Council Policy No. 12. Councilwoman Rivera seconded
 the motion.

Discussion on the Motion:

Councilman Noble pointed out that at the last City Council meeting, it was mentioned that a City Manager's job is always in jeopardy and that city managers come and go. But because our City Manager has done such a wonderful job, we hope he never leaves. He reminded attendees that that observation also applies to City officials as well. Their terms of office are every two (2) years, so when they do not do their jobs, there are term limitations and you, the voters, have an opportunity to make changes. Councilman Noble reminded attendees that in 2016, three (3) seats, District II, District III and District IV would be up for election. And what is being abolished now can be reinstated in the future.

Councilwoman Rivera agreed. She asked for clarification between the policy and the Charter regarding the City Council versus the Mayor making recommendations for Deputy Mayor.

Mayor Ferreri gave a historical perspective as to why this policy was enacted. The designation of Deputy Mayor became a popularity contest, so the Council created this policy and placed the responsibility on the Mayor. Through the years, he chose Council members who he felt could run a meeting in his absence. He emphasized that as the policy states, the Mayor makes a "recommendation", but the Council still makes the appointment.

Councilwoman Dugo agreed with the Mayor regarding at least serving one year on the Council prior to being eligible for appointment.

Councilman Pearce stated. "The Council will take into consideration just that. We can determine and I think we're grown up here, the five of us, where we can decide as adults and as elected officials that a person can be here for a year. It can be in the form of a rule, it doesn't have to be a policy. The bottom line is this was created in 1997, it's 2015. What

problems you had back in 1997 were the problems you had in 1997. You don't have those problems today in 2015. The point is with a lot of these policies is that they haven't been looked at in 15-20 years, a lot of this stuff. The point is I want to bring it to the attention of the five (5) Council members. We should be able to do this ourselves. We don't have to be rocket scientists to do this. The Charter says it, so let's go back, and again folks, if it doesn't work, we can always go back and draft a policy. I know in government once you do things, things never change, but that's not my belief. Let's try it out, see how it works, if it works well we'll continue with it, if not, we can always change it. I don't see what the big deal is.

Mayor Ferreri called for a vote on the motion.

**VOTE ON
THE MOTION:**

In Favor: Councilwoman Rivera and Councilman Pearce.

Opposed: Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion failed: 3 - 2.

H. **City Council Policy No. 14** – Council Communication with Staff Members.

Mayor Ferreri emphasized that Councilman Pearce' earlier statement that things change, he agreed that they do, but things come back. Historically in 1997, when both Council Policy Nos. 12 and 14 were implemented, he pointed out that every vote was a 3-2. He believed that this policy has served the City well. He stated that in 1982, when the Charter was amended, this policy should have been included in the Charter similar to Village of Wellington's and Village of Royal Palm Beach's charters. He pointed out that it is the Council's prerogative to decide. He believed that it was not broken. He believed in the process of speaking with City employees through the City Manager or City Attorney. Mayor Ferreri noted that there are protections for employees and when you interfere, other problems can arise.

Councilwoman Dugo pointed out that the City Manager is the Chief Administrative Officer responsible to the Council; the staff is responsible to the City Manager. Reading from the policy, it states, ".....a Council member wishing to communicate with a member of the City staff regarding City business shall do so through the City Manager. No member of a staff shall communicate with a member of City Council regarding City business without first obtaining the consent of the City Manager." Ms. Dugo believed that this policy has prevented Council from approaching a director and asking for an update on a given matter. It prevents any type of constructive communication. She wants to see this policy abolished and requested a policy that allows communication; that does not allow a Council member to give any staff a "to do" list, or that does not allow an employee to go to a Council member and whine about a situation that should be handled by the City Manager. Since she was elected, she is of the understanding that this policy is demoralizing to not only employees but to her as well. Ms. Dugo proposed a better and more definitive policy and urged Council

members to write down what they felt should be included and bring it to the May 18, 2015 City Council meeting. Bring it up for discussion and consult with the City Attorney as to form.

Councilman Pearce reported that while campaigning during one of the elections, he knocked on the door of a City employee who would not speak to him and had his wife explain to him that her husband was fearful of violating Council Policy No. 14 and being reprimanded by his supervisor for speaking with him since the subject matter was City business. A number of department heads in their department meetings have warned employees about Council Policy No. 14. Numerous times during evaluations supervisors have threatened employees with this policy, not in writing, but making the employee perceive it as a threat. He stated that when he was elected in 2010, the City Manager informed him of Council Policy No. 14. He reported that as a contractor, he approached the Building Department with a permit question and was told to go through the City Manager's office for a response. Councilman Pearce pointed out that this policy only includes the City Council; it does not include the Mayor. He agreed that this policy needs to be abolished and a better one created.

Councilwoman Bousquet was dubious about communicating with the Building Department who has contacted the City as an employee of the Temple and had no problem.

Councilwoman Dugo reiterated that her proposal to abolish and create a new policy is not intended to undermine the City Manager. It is to create open communication as a "team".

Councilman Noble believed there were good comments made and suggested that this policy remain until a new policy is drafted, at which time the old one can be cancelled.

Councilwoman Bousquet read Article VIII, Section 2 of the City Charter where it states that the City Manager is entirely responsible for the hiring, firing, directing and supervising of all City employees exclusively. She suggested keeping the policy in place until a replacement could be drafted.

MOTION: Councilman Pearce made a motion to abolish City Council Policy No. 14. Councilwoman Dugo seconded the motion.

Discussion on the Motion:

Mayor Ferreri suggested Council members use some of the language from other city charters as a sample.

Councilwoman Dugo pointed out that the charter does not address a breach of this policy. She is asking for a policy that addresses that specifically. She reported consulting with other cities who have more of an open door communication and where the repercussions are spelled out.

She did not believe her proposed changes would require a charter amendment.

Councilman Pearce cautioned against addressing disciplinary action due to the politics involved. "I don't like this person, I don't like that person. Someone could say that never happened. We are elected officials, the only person that judges us is our constituents. I don't agree with that and I would never support anything like that."

Mayor Ferreri called for a vote on the motion.

**VOTE ON
THE MOTION:**

In Favor: Councilwoman Rivera, Councilwoman Dugo, Councilman Pearce.

Opposed: Councilman Noble and Councilwoman Bousquet.

Motion carried: 3 - 2.

Mayor Ferreri instructed the City Clerk to add this item as a Discussion Item to the May 18, 2015 Agenda and urged Council members to bring their ideas.

8. Comments from the Public.

Estelle Friedman, residing at 3820 South 55th Avenue, suggested that Council members get copies of Roberts Rules of Order, since they know nothing about minutes. She admonished them for trying to change the minutes and for grandstanding and asked if they believed this to be a popularity contest. She agreed that the City had needs and that Mr. Atallah is an excellent City Manager, somewhat conservative, but that conservatism has served the City and employees well by avoiding layoffs during the economic collapse. Ms. Friedman was willing to have her property taxes raised by \$25 if it meant the City could hire additional personnel. She scolded them for their infighting, encouraged them to learn their roles and urged them to make their citizens proud.

Larry Tronco of Lucerne Park, wanted to discuss two comments about change. He agreed that change is important; however how changes are implemented is equally important. He recapped their actions of abolishing Council Policy No. 14 and stated that their action now leaves the employees in a vulnerable and difficult position without anything to replace it. He urged them to consider the impact of their actions before making changes. As for the discrepancy in the Charter of no definition of "full Council", he stated that Council needs to consider how long this phrase has been in place. He did not understand why the Council did not want to seek an opinion from the Attorney General's office which is the highest legal authority in the State.

Chuck Shaw, residing at 2252 Soundings Court, wanted to address the Council Policy No. 18: Fund Balance. He wanted to make the public aware that some of the items in this policy are statutory and Council cannot pick or choose specific items. By abolishing this policy, areas that would be eliminated are: the Emergency Disaster Fund for hurricanes. The Pension Plan for Police and Firefighters is part of the Fund Balance. The Budget Stabilization Reserve keeps the City solvent, the Compensated Absences

Reserve, New Growth Fund, Parks and Recreation, Reconstruction Maintenance, Restricted Debt Service and Restricted Youth Programs and Restricted Arboreous Activities. Mr. Shaw reminded City officials that they have the ability to fund additional law enforcement or firefighters or other staff. You cannot destroy a fund balance that is a protection for this City just because you want to do it. "It is bad policy and irresponsible." He agreed with Ms. Friedman's comments about raising taxes and believed the citizens would be willing to pay more. However, he was against abolishing a policy that protects the financial welfare and stability of the City. He strongly urged Council members to not eliminate this policy.

Bob Barber residing at 145 Fleming Avenue, reported receiving a code violation for owning approximately 50 chickens. Because other people have them too he requested an exemption or allowance to keep his chickens.

Mayor Ferreri suggested speaking with the Director of Planning and Engineering, Thomas Lanahan for direction.

Roxana Hunt-Gale residing at 5950 Sunland Court, reported that upon comparing fund balances of other cities, she learned that Greenacres only possesses unassigned funds of \$6 million whereas the Village of Royal Palm Beach has \$60 million, the Village of Wellington has \$17 million, the Village of Palm Springs has \$51 million. Her point is that yes, we want to have a safe City and well paid employees. She pointed out that every action they take must take into consideration and be cognizant of the future of the City.

9. Discussion Items:

A City Council Policy No. 18 – Fund Balance Policy.

Mayor Ferreri referred to Mr. Atallah's memo explaining the City's reserves. He gave a short historical perspective. He explained that following the 1990 census count, the City lost \$2 million and suffered employee layoffs as a result. He reminded Council that not all revenues are derived from property taxes. Rep Lori Berman talked about the Communications Service Tax (CST) which is a tax all of us pay for cell phone usage. State legislators now want to take away the City's money, and hold us harmless for one year after which time, \$2 million in revenue disappear, and this is just one example.

Councilman Pearce interrupted the Mayor and stated, "You know Mr. Mayor, I sort of take exception to what ..."

Mayor Ferreri asked, "Can I finish my....."

Councilman Pearce interrupted the Mayor again and stated, "No, because, you're doing...no, you're putting the fear of God into people out there. Folks, I sit on the Finance and Taxation..."

Mayor Ferreri said, "I'm not putting the fear in anybody, I'm giving them a historical perspective...."

Councilman Pearce continued, "I sit on the Finance and Taxation..."

Mayor Ferreri banged the gavel and told Mr. Pearce, "I am chairing this meeting and you

don't understand! You sit on the Finance and Taxation Committee, I was at the last two (2) meetings, and I didn't see you there."

Councilman Pearce responded, "Well, Mr. Mayor, you look at the records here at the City where they reimbursed me for going there and my hotel records. Folks, the CST is not going to go away. The Mayor is saying we're going to lose \$2 million that is not true. Is it going down a little bit, yes because of technology out there. But for someone to get up there and say historically, we're gonna lose \$2 million, that's not gonna happen, okay. Please, nonsense Sam, be honest with the people will you!"

Councilman Noble reminded Councilman Pearce that he can't say that the City won't be raising taxes either.

Mayor Ferreri responded, "I am being honest, I was here in 1990 where we laid people off when we lost money from the Census. There's another Census coming in five (5) years. We spend a lot of money to make sure we get the right counts. There are people that are on fixed incomes, we've always try to balance that. I'm just putting out there there are residents willing to pay more, I'm willing to pay more myself, but I know there are others that may not be able to afford it." He explained the events following a hurricane e.g. damage assessment, cleanup efforts, overtime, delays in receiving FEMA reimbursement. He explained these are some of the reasons for having the Fund and Reserve Balance. As a very conservative businessman, he understands the importance of retirement income. That is why he believes that maintaining 25% or three (3) months of income to cover a catastrophe will prevent hurting our employees. Behind every employee there is a family. He emphasized he is not trying to instill fear in citizens, on the contrary, past experience and the recent economic downfall, has taught the City to take the steps necessary to avoid raising taxes or laying off employees by creating the Budget Stabilization Fund. With the slight upturn in the economy last year, the City committed to hiring several new police officers and firefighters. He would like to see an increase in afterschool youth programs and the hiring of more afterschool personnel to help keep kids off the street.

Councilwoman Rivera pointed out that Council Policy No. 18 was created in 1997 and revised in 2012. She asked why was it revised.

Mr. Atallah explained that in 1997, the City had a "contingency" policy. In 2012, the State created the "Government Accounting Standard Board (GASB) which mandated that cities adopt a fund balance policy to be used for accounting and reporting purposes as well as handle catastrophic or unexpected events.

Councilwoman Rivera asked since Council approves committed and assigned balances, what are the reasons/justifications for the categories presented and what are the dollar amounts.

Mr. Atallah explained the amounts in question are adjusted annually for the Comprehensive Annual Financial Results (CAFR) and are based on the percentages outlined in the policy. For example, if there is an increase in expenditures, and we are required to maintain 25% of unassigned, that number automatically adjusts upon Council adoption of the Budget. So, you take your prior year's CAFR numbers and in conjunction with an upcoming budget, those numbers are adjusted and reflected in the budget presented to Council for approval.

Councilwoman Rivera asked if the City was above the required 25%, and if so, by how much?

Mr. Atallah replied yes, by approximately 27% for FY 2015.

Councilman Pearce asked, "How much money is that?"

Councilwoman Rivera said, "I'm not done Pearce, give me a second." She then questioned that in the General Fund there are committed accounts with dollar amounts. She wanted to know where were they derived from for FY 2013, FY 2014, and FY 2015, yet the Unassigned Reserve totaling over \$6 million has barely changed.

Mr. Atallah reiterated that the numbers come from the previous year's CAFR as explained earlier; the numbers are then calculated by the auditors, and reflected in the CAFR itself that was presented to you in March, and then applied to the FY 15 Budget moving forward. With the upcoming budget cycle, we will incorporate the FY 2014 CAFR numbers into the FY 2016 Budget. He noted that Council will be able to see those numbers since they will be outlined in the Budget itself.

Councilwoman Rivera pointed out her questions were answered for now, but she would be revisiting this policy.

Councilman Noble pointed out that the City's property tax revenues are \$6 or \$7 million dollars and represent 1/3 of the City's operating expenses. To run the City's Public Safety Department, the City pays \$12 million dollars. With the slight upturn in the economy, he suggested loosen up and reconsider hiring additional police and firefighters. With pensions and benefits, the cost to the City represents approximately \$125,000 per hire. With three (3) shifts, 3 new employees would need to be hired which totals a half a million dollars. He pointed out that from the \$12 million dollars, the City contributes \$1 million dollars to the 175/185 Police Officer/Firefighter pension plan, which is one of the most solid plans available. Councilman Noble estimated that another recession could be eminent in the next 1.5 years when interest rates begin to rise. He agreed with the Mayor that the City should remain conservative, solid and solvent. He agreed that the City could be a little more lenient with the Public Safety Department.

Councilwoman Dugo recalled approximately 2 years ago, the City at the time the priority was to cut property taxes by \$5 per household which she believed was imprudent at the time. However, she disagreed with Councilman Noble's perspective and recalled when President Ronald Reagan was in office and interest rates were 12%. She was glad to see Council was thinking about Public Safety.

Councilwoman Pearce asked Councilwoman Rivera if she was not interested in abolishing Council Policy No. 18, was she interested in tweaking it.

Councilwoman Rivera said she was not interested in touching or abolishing it. She was trying to get a fair understanding of it since she did not receive the 2012 revision.

Councilman Pearce said, "Believe it or not everyone, please everybody stay in their seats, I'm in favor of this. I think it is organized and I think there could be some tweaking to it. We could look at things. Now, Mr. Shaw talked about the Emergency Disaster

Reserve, for the record, we did get reimbursed from FEMA some money, did it take some time, yes, okay. I am in agreement with the Unassigned Reserve of 25% where we have 3 months money on hand to pay the bills in case everything goes doom and gloom. But, you know the Budget Stabilization Fund is a slush fund, we have \$2.1 million dollars in it. It gets tweaked here and there depending on... like Mr. Atallah says. Do you need \$2.1 million dollars? Can we take a little bit of that money. Our former Council member Mr. Radcliffe, at budget time always would say, let's take a couple of dollars and help out, we don't need to lower taxes, we've got some extra money there. We got \$12.8 million dollars extra money as a surplus, we have an understaffed police department, we have 38,000 people, we have 52 cops. It is recommended to have between 67-70 people. As for the \$125,000 to hire a cop, it does not cost \$125,000 to hire a cop. They start at \$45-\$46,000. We don't need to add in a car for every cop, we don't need to worry about their overtime, that's our problem. It's our job to curtail as management the overtime. You know, it more like \$65-\$75,000 per person. That number always blew my mind, I mean...I looked at that over, over and over, I just really couldn't understand it."

Councilwoman Rivera stated, "The reason why I questioned it or the reason why I'm trying to wrap my brain around the unassigned balance is because we do have a need to increase our police department. We are documented at 39,000 population, documented that is not including the undocumented. You still have to service the undocumented even though they are not reporting on our census. We don't have 39,000 population, we have maybe 45,000-46,000. Are we gonna deny services to those who are not documented in the City of Greenacres? No we cannot do that. So you have to look at the reality for the City of Greenacres. It is what it is. We have those that are reporting as per the census, but we have those that are not. And those that are not ...

Discussion followed over who had the floor.....

Councilman Pearce stated Council would take it up at Budget time. "We're gonna have a workshop on the Budget next week and get some ideas. But yes, as Mr. Shaw says, the Unassigned Reserve of \$6.2 million dollars, even if it's just \$6 million, we're 2 points above what we're supposed to be." He agreed, that "We're in good financial shape as a City, now the question is priorities. Remember back in 2010, the Sheriff's Department did come in and give us a bid even though they pulled away from it, they withdrew it, they recommended 2 cops for every 1,000 in population. So if we just went conservatively with $38,000 \times 2 = 76$ cops. We have 52, so there's a benchmark we can look at, that we can start working with; same thing with our fire department."

Mr. Atallah reminded Council that it is their policy and it depends on what decisions are made collectively in terms of what numbers are assigned for these various reserves. Mr. Atallah explained that when the policy was adopted it was based on the best recommended practices of the Government Finance Officer's Association (GFOA). And that's why it was changed in 2012. "If you want to make changes, that is the Council's prerogative."

Mr. Atallah reported that the City is required to demonstrate that the City spends an equivalent of \$2 per person for tree maintenance. In actuality it is part of the routine tree maintenance the City provides; it is calculated by figuring the cost of labor and materials that is used for routine maintenance and demonstrate it exceeds the minimum threshold.

Councilwoman Bousquet stated she was glad to see the Council has agreed to keep the reserves as is because the City is financially sound. She did want to address the "slush fund" as referred to by Councilman Pearce. She believed it could be used for improvements; however, she cautioned that using that fund to increase staff levels would create recurring costs and if the funds were no longer made available, the City still has to maintain those costs and would not make sense.

Councilman Pearce stated, "When I got elected in 2010, we had a \$10 million dollar surplus. Today as we speak, \$12.8 million dollars, a 28% increase in four (4) years."

Councilwoman Bousquet asked, "What are you calling a surplus?"

Councilman Pearce pointed out, "That's over a 7% return a year on our money."

Councilman Noble asked, "What happens if we have a hurricane?"

Councilman Pearce stated, "You would go to your Emergency Disaster Fund and you got \$2.1 million dollars. The point I'm making is that this fund keeps growing, growing, and growing and it's been staying pretty much the same year after year. We've just been pouring money into it and one of the complaints has been fire unions, is you're telling us we have no money. Last year we had a surplus of \$1.3 million dollars after last year's budget. Another complaint..."

Councilman Noble asked, "Is that bad or is that good?"

Councilman Pearce replied, "No, I'm saying that's good that we have an extra \$2.8 million dollars; it's bad that we tell our unions we have no money to negotiate with and their sort of scratching their heads saying, huh." Look at all this money you got. We have a contract with the City of Atlantis to provide fire and EMS. We're well under market value compared to Boynton Beach with the contract they have with Ocean Ridge, w-e-l-l under market, okay. I mean there's things we can look at to increase and generate additional revenue in my opinion, and to help out. But this is something at budget time the Council will take up and discuss when it comes to forming our budget and our priorities. We got an idea and I think it's been helpful so we have a good understanding of the General Fund and we'll go forward with it and we'll address things."

Councilman Noble stated, "When you look at your taxes, look at the bar that says Greenacres. Sometimes residents complain their taxes are going up, but that's because of the other taxes. But, if you look at Greenacres, you usually find that they are going down or are only a few dollars higher." He had one resident come up to him and ask, "How do you run the City when I pay only \$200 in taxes." And what is he getting in return, great police and fire and ambulance services. Councilman Noble urged City officials to be careful with overspending the \$6 million dollars in property tax revenue. He praised Mr. Atallah for maintaining a very conservative Budget. The Budget will be discussed next week.

Mayor Ferreri reminded Council of their commitment to renovate and expand the Community Center at a cost of \$3.4 million budgeted, but would be a couple of million dollars short which may come from the \$2.8 million Mr. Pearce mentioned or the City may have to borrow funds. He emphasized Mr. Noble's earlier statement that the City derives only 1/3 of its revenue from property taxes which has a 3% cap for homesteaded

properties. If something falls apart, you just can't raise taxes. The other 2/3 we do not control, we are at the mercy of the State. Mayor Ferreri asked Council if they we want to abolish this policy or tweak it next week.

Councilwoman Rivera stated she wants to tweak it next week.

Councilman Noble wants to tweak it next week.

Councilwoman Dugo wants to tweak it next week.

Councilman Pearce wants to tweak it next week.

Councilwoman Bousquet wants to tweak it next week. But she reminded Council members she would be out of town for the May 11, 2015 Budget Planning Workshop.

C. City Council Policy No. 22 – City Council Travel.

Councilwoman Rivera requested to know why this does policy does not include travel by the Mayor, City Manager, or the City Attorney with funds being used from City dollars. She asked if there was a way travel requests could be placed on an agenda prior to travelling, providing a purpose of the travel and the estimated cost so that residents can see where Council members travel and for what purpose. Her intent is to make it more transparent.

Mayor Ferreri and Councilwoman Rivera discussed placing travel requests on Council agendas for approval prior to travel. Mayor Ferreri pointed out there are instances where that would not be plausible. Councilwoman Rivera demanded that the costs be reported at a subsequent Council meeting prior to travelling. She wanted to show residents how the funds are being spent.

Mayor Ferreri reported there have been instances where he has been asked to testify in Tallahassee before the State House or Senate with two days notice. There is \$15,000 budgeted for travel which is used for Council members to attend two conferences or committee meetings in Orlando or Tampa. But to place travel requests on an agenda for approval, he believed was onerous and a waste of time.

Councilwoman Rivera disagreed.

Mayor Ferreri pointed out with \$15,000 budgeted for travel in a \$20 million dollar budget is micromanagement.

Councilwoman Rivera reiterated that is answering to the residents.

Mayor Ferreri pointed out that being that Ms. Rivera has never attended a budget meeting and she has now attended three Council meetings....."

Councilwoman Rivera interrupted, "Are you going to continue with your sarcasm."

Mayor Ferreri said, "Yes, I am because...."

Councilwoman Rivera replied, "That's sad, that's sad."

Mayor Ferreri reminded Ms. Rivera that he has the floor and that she spoke out of order.

Mayor Ferreri stated there is no excessive travel and the sessions they attend help bring back millions in grants a thousand-fold compared to the amount of money spent in travel. Compared to other cities, we spend nothing. He reported that currently Councilman Noble serves on the State Pension Board and the Mayor serves on the Florida Municipal Insurance Trust (FMIT) at no cost to the citizens and these costs are visible.

Councilwoman Rivera repeated her request to make travel visible to the residents and insisted she wanted it on the Agenda.

Councilman Noble recalled one trip where the use of a particular automatic light switches would turn on when there was activity. That one item alone saved the City thousands of dollars in electricity. From another trip it was learned that cities were not receiving their share of the Communications Service Tax which generated \$200,000-\$300,000 in added revenue. He agreed with the Mayor that these trips are well documented and help bring back millions to the City.

Councilwoman Dugo asked if what Ms. Rivera was requesting was a verbal report or something in writing to the Council. She asked if she was asking for a monthly report. She agreed to obtain pre-approval for a budget item is not feasible. The funds expended for travel can be seen in the monthly and quarterly reports and there you can see if we are overbudget. She clarified that what Ms. Rivera is asking for is a report.

Councilman Pearce pointed out that what Ms. Rivera is asking for is transparency and that can be accomplished at the next Budget meeting with a 3-ring binder with separate tabs for the five Council members and the Mayor that includes their individual expense reports showing food, travel, mileage, and an itinerary of sessions attended. He stated that he asks the City Manager annually through a Public Records Request to provide him with a breakdown of travel by each Council member and the Mayor. The public can also do that.

Councilwoman Bousquet stated that she did not have a problem with people seeing such a report but questioned what they would do with the information.

Mayor Ferreri asked how Council wanted to proceed with Council Policy No. 22. Do they wish to keep or tweak it.

Discussion followed over wanting a detailed report, a 3-ring binder, provide a copy of their reimbursement form, and a detailed expense report.

Mayor Ferreri reminded Council that they cannot exceed the budgeted amount without Council approval. We now have a couple of representatives that attend the Florida League of Cities (FLC) and National League of Cities (NLC). Other cities allow their entire Council, City Attorney and City Manager to attend conferences and yet they are never seen. It was his belief that the travel procedures are in place and if someone wants to see it, it is public record.

Councilwoman Bousquet added that she is on a national committee for economic development along with Andy Amoroso from Lake Worth, so she decided she did not want to spend the money to go to Salt Lake City, since he could bring back the information.

Mayor Ferreri noted for the record that as the state representative on the NLC board and his entire trip is pre-paid by the City and later reimbursed by the FLC.

Mayor Ferreri stated the consensus is to leave this policy alone but provide better reporting. He instructed staff to provide a memo and provide a 3-ring binder. He suggested when signing up to attend a meeting to include their upcoming travel requests in the FYI memo with associated costs.

10. Staff Comments:

A. City Manager's Report. None.

B. City Attorney's Report. None.

11. Mayor and City Council Reports.

Shopping Carts

Councilman Pearce raised comments made earlier by Ms. Friedman about shopping carts. He reminded everyone that elections are at-large and some districts may be affected more than others.

Councilwoman Bousquet believed that shopping carts were not a priority especially when Public Safety and Public Works personnel concerned with carts, when there are more important issues to address.

Councilman Pearce clarified that it is not the police, but Public Works that picks up shopping carts.

Councilwoman Bousquet pointed out that he originally wanted to pass an ordinance to ban shopping carts.

Councilman Pearce stated there is a County ordinance regarding shopping carts. Our Public Safety Department can issue citations, we just don't have a local ordinance. To say they should just look the other way on a violation is nonsensical.

Official Minutes & Robert's Rules of Order

Councilwoman Dugo reminded Ms. Friedman that the minutes cannot be discussed prior to a meeting since it would be a violation of Sunshine Law. And even it appears we are in heated discussions that is what they are here for. The major discussion about the minutes was whether the Council consisted of 5 or 6 members. She asked if Council believed it would be prudent to seek a second attorney's opinion for the future.

Councilwoman Bousquet clarified that Ms. Friedman's comments were correct in that the minutes unless transcribed incorrectly, cannot be changed.

Councilwoman Dugo stated that Ms. Friedman also implied that the Council is not following Robert's Rules of Order. She believed the Mayor does a good job in ensuring that they do.

Council Hiring and Firing

Councilman Pearce asked what direction did Council want to take with respect to the Mayor voting when hiring/firing the City Manager and City Attorney. He asked what statement do they want to make. He said, "It will be clear and concise and if anybody disagrees with it, then it is in their court, they can do what they want. In my opinion, to go out and get an opinion is not gonna solve the problem. You have to have a plaintiff, you have to have a defendant and your gonna get a true opinion from the court. That's the only way you can do it in my opinion, okay. The Mayor interjecting himself into ...for whatever reason, whether he believes he has the right to vote or if it's a political reason, okay. I think it's clear in my opinion as one of five members of the Council, this has been tradition as the gentleman from Park Pointe asked. Sir [Mr. Tronco of Lucerne Park], this is going back to the 1990's when there were two other city managers, the Mayor never voted. (Mr. Tronco....inaudible). Yes, it's been like that forever. (Mr. Tronco....inaudible). No, you'd have to have the people vote on it because you'd be changing the City Charter. And that would be the job of the Council to do that and since it's been like that forever, it's always been the City Manager, the City Attorney have been employees of the City Council. There's five people."

Mayor Ferreri reiterated that this matter would not get solved tonight and suggested placing it on the next agenda.

MOTION:	Councilman Pearce made a motion clarifying that the majority vote of the full Council consists of the five members of the Council. Councilwoman Rivera seconded the motion.
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Discussion on the Motion:

Councilman Noble said that motion was made too quickly.

Mayor Ferreri stated he was unsure that the Council can change an interpretation of the Charter and further noted that the City Attorney had already outlined how they could seek an opinion.

Councilman Pearce and Councilwoman Rivera together stated, "That's just her opinion." He stated, "That doesn't mean it's right."

Mayor Ferreri stated, "She's our legal counsel. He asked if they both had legal degrees. He reminded them that the City hires an attorney to protect them.

Councilwoman Rivera said, "To protect you."

Councilwoman Dugo asked, "So we can't have another attorney's opinion, is that what you're recommending?"

Councilman Pearce stated, "But that's not gonna do anything. That's an opinion. That doesn't mean it's etched in stone. Someone's gonna disagree with it and you're still in this quagmire."

Mayor Ferreri emphasized, "If you get an Attorney General's opinion, it stands unless you take it to court.

Councilman Pearce stated, "But Sam, you may disagree with it."

Mayor Ferreri said, "Well then, I can take it to court if I disagree or I may not take it to court if I disagree. That's the process."

Councilwoman Dugo pointed out that this has nothing to do with Mr. Ferreri; it has to do with any Mayor that's there. We need to establish what we're going to do; either change the Charter or nothing."

Councilman Pearce stated, the motion's been made and it's been seconded, so let's go forward. Let's have a discussion.

Discussion followed on the motion being made out of order.

Mayor Ferreri instructed staff to include the process for a charter revision as a Discussion Item on the May 18, 2015 Agenda. He gave a brief description of the process.

Councilman Pearce stated, "Takes too long."

Mayor Ferreri asked, "What's the rush; there's never been a tie vote on hiring a City Manager". He asked, "Why would you want to hire anybody on a 3-3- vote? If I was the Attorney, I wouldn't take the job."

Councilman Pearce stated, "First of all, it's my opinion that you don't vote.

Councilwoman Rivera agreed.

Councilman Noble stated, "That's your opinion."

Councilman Pearce continued, "And the Council is the one that decides it. And if that's our decision that's the way we're gonna.....if that's the position we wanna take then that's the position we're gonna take."

Mayor Ferreri instructed staff to include it on the next Agenda and offered to involve the Attorney General.

Councilman Pearce said, "Sam, the Council has to instruct the Attorney for the Attorney General."

Mayor Ferreri clarified, "I'm not going to ask the Attorney General for an opinion, I'm going to ask the Attorney General if you have the power to change the Charter illegally, that's my question to the Attorney General."

City Attorney Pamela Terranova suggested asking the Attorney General who has the jurisdiction to change or interpret an area of the Charter, that's subject to interpretation. "That's the question. You can hire fifteen lawyers and fifteen lawyers will give you fifteen different opinions. The

only lawyer's opinion that matters is the Attorney General's." In most instances those opinions are usually honored.

Councilman Noble stated, "And if we disagree, we can take it to court."

Councilwoman Dugo asked the Mayor that when the previous two city managers were hired, was his vote recorded.

Mayor Ferreri explained that he and the Council voted using a form and he recalled not being present for one of the selections.

Ms. Terranova pointed out there is first a selection, negotiations and then the approval; it's a two-fold process.

VOTE ON THE MOTION:	No votes were cast since it was determined the motion was made out of order.
	Motion failed.

Mayor Ferreri recalled not only being part of the selection process, he also negotiated the salaries for both.

Councilwoman Dugo was concerned with whether it was documented in the minutes at the time the Mayor voted to hire for the position.

12. Adjournment.

Mayor Ferreri inquired if there were any additional comments; hearing none, he adjourned the meeting at 10:03 p.m.

CITY COUNCIL

Samuel J. Ferreri
Mayor

Respectfully submitted,

Denise McGrew

Denise McGrew,

City Clerk/Administrative Services Director

Date Approved: 5-18-15



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